

with the president) the power of making war and providing for military operations in both houses conjointly, it is fairly presumable that the framers of the constitution did not contemplate secret proceedings in any other cases. And in what other cases can they be necessary, or consistent with the principles of our institutions? Our political system is essentially a system of publicity. The genius of it is at war with the course so commonly pursued by monarchical cabinets and despotic divans. So far as our congress have departed from this original principle of our system, they are justly liable to the censure involved in Lord Chatham's speech on a motion for the dissolution of parliament in 1771. "For a public assembly to be afraid of having their deliberations published, is monstrous and speaks for itself. No mortal can construe such a procedure to their advantage. It, and the practice of locking the doors, are sufficient to open the eyes of the blind: they must see that all is not well within." If this be good doctrine in a monarchy, how much more so in a republic!

The question is not however, what ought to be the powers of congress, in this respect, but what are those powers. It is the opinion of some that a written constitution affords no security to the rights of the people. Let us hope that this opinion is unfounded. It is dangerous to adopt constructions of the spirit of the constitution. It is much safer to adhere to the letter. If this be generally done, and the constitution be at once correct in principle and intelligible in expression, how can it be otherwise than that it should secure our rights and privileges? Could a *LEX NON SCRIPTA*, a collection of "shreds and patches" of legislative, executive and judiciary opinions and decisions, accumulated gradually in the progress of ages, secure them better than this *LEX SCRIPTA*, this plainly recorded law, to which all can recur, and which all can apprehend!

Each house of congress, then, has power to conceal from the people such a portion of its proceedings as it deems improper for promulgation. But this power can only be exercised by first exercising another, that of "determining the rules of its proceedings," unless, indeed, the house shall think it more proper and take the trouble from day to day, of taking a distinct vote on every part of the journal which it means to keep concealed. No such thing exists in practice. The house of representatives has established particular rules upon the subject. It is provided that when a member shall announce to the house that he has a motion to make, the proceedings upon which, in his opinion, ought to be kept secret, the doors shall be closed, and the house shall determine by a vote, whether those proceedings shall be secret or not. The house sometimes immediately determines that the proceedings shall not be kept secret, as in the case of a motion which was made for the sequestration of debts due by the citizens of the U. States to British subjects. But no instance is recollecting in which the house literally pursued its own rule, and determined by a formal vote, that proceedings upon a motion made with closed doors should be kept secret. The house therefore does not, in the cases mentioned, pursue the letter of the constitution and of its own rule which is intended to carry that provision of the constitution into effect.—How far, then, is the rule obligatory upon the members?

Another rule provides that when a confidential message is received from the president, the proceedings upon such message shall be secret, until the house shall otherwise determine. But nothing is said respecting documents which may be communicated with the message. These form, in fact, no part of the "proceedings" of the house, being merely matter of information to bear upon those proceedings. They are never recorded in the "journal of its proceedings," and it is only "such parts" of the "journal of its proceedings" as "may in their judgment require secrecy," that they have a right to conceal. This will lead us to the investigation of a "question."

Foreign Intelligence.

By the ship *Eliza Ann*, Capt. Steele, arrived at New-York.

LONDON, May 2.

Whatever may be the termination of the present contest in Spain, it is evident from every account which we receive, that the most determined hostility to the French continues to be evinced by the brave inhabitants of the Peninsula, from one extremity thereof to the other; and that in fact the peace can only be concluded in desolation. St. Sebastian, our readers will observe, is at the foot of the Pyrenees, and therefore adjoining France, and yet from that quarter has the following statement been brought by an American captain: He says, that "The women of the country had,

on various occasions, procured provisions, clothing, and numerous necessary articles, which, in defiance of all remonstrances, they daily conveyed to small bodies of patriotic troops, who had shewn themselves in the neighborhood. This was at length considered as an offence of much enormity against the French Government, and a considerable number of these ladies were taken up and tried by a Military Tribunal, whose sentence consigned 16 to be shot; and the sentence was carried into execution. He saw three of these heroines put to death, which they endured with wonderful fortitude.

We are extremely concerned to find, that among other melancholy circumstances, resulting from the late disturbances in the capital, his Majesty was rendered so unhappy, that he was indisposed for some days, and the effect was the total loss of his remaining sight. But it is with very great satisfaction we add, that his Majesty is now perfectly recovered, and in as good general health as he ever enjoyed. His Majesty is, however, obliged to avail himself of external assistance in his occasional walks, which was not the case before the unfortunate events alluded to. His medical attendants have, we understand, declared that his eye is now fit for the operation, whenever he feels himself disposed to submit to it.

Received via Boston.

DUBLIN, May 4.

We have received the London papers of Monday. There is not, with the exception of the prerogative of the French Legislative Body, any intelligence of moment in those papers. It is worthy of observation, that although there is a solitary collateral fling against the "eternal enemies of the Continent," the speech of the Senator Regnaud does not contain the customary attack upon the people and government of England. This may be considered by many sanguine persons as indicative of the return of a pacific disposition on the part of Napoleon. The speech expatiates with great and pardonable complacency on the nuptials of the Emperor and the Archduchess of Austria. There is no doubt that this marriage was one of the first strokes of policy Napoleon ever exhibited. It secures, as his orators say, the peace of the Continent; and when the Peninsula shall have been subdued; it will leave him at liberty to prosecute a maritime war, or to turn the arms of the French People, as well as of his confederate legionaries, to the Ottoman Empire. The latter is mentioned slightly; but it may be for the purpose of concealing his design. Indeed we think that a Turkish war is by no means so remote as may be generally imagined.

The last accounts from Lisbon and Spain describe the French as suffering under great want of provisions. One of these letters says, "the French are retreating from the Portuguese frontier in want of every thing." The same want is felt in Spain, and the next accounts will probably bring us intelligence of their having quitted the vicinity of Cadiz.

The Duke of Belluno (Victor) is stated to have died at Seville on the 4th April, in consequence of a wound inflicted by a cannon shot, while reconnoitering the Spanish works before Cadiz.

TOWN SURVEYOR.

Mr. F. J. Belanger, lately appointed by the Commissioners Town Surveyor, has the honor of informing the inhabitants and the owners of lots in the Town of Wilmington that he is now ready to exercise the duties of his appointment. He will survey any lot that may be desired, with dispatch and fidelity, and in addition draw out a handsome view of its situation and environs. His charge for the additional trouble, he will leave wholly to the generosity of his employers. He proposes to undertake a general Survey of the Town and draw a plan thereof, on which will be marked out all the streets, alleys, cul de sacs, hills, valleys, remarkable trees and vacant lots, and he will then be enabled to furnish every proprietor of town property with a separate plan of his own possessions, accurate in the proportions and situation; all which will be respectfully submitted, leaving to each purchaser to pay a sum proportioned to the number of his lots.

F. J. BELANGER hopes he will meet with liberal encouragement and promises to spare no pains to deserve it. June 26—1810.

P. BENJAMIN, begs leave to make a grateful expression of his feelings to those persons who have exercised towards him that large share of kindness and patronage which he has received in this place, and at the same time to inform them that he intends in a few days to depart for the Northward. Early in the fall he will return to resume his profession as a Teacher of Music, and being desirous of establishing a small Musical Repository in this town, he solicits those who may be indebted to him to settle their accounts; he will then be the better enabled to prosecute his intention, the success of which he believes, will be an advantage to the lovers of Music in this town, as well as a profit to himself. June 26.

DOCUMENTS FROM FRANCE,

Received at Washington by the arrival of the John Adams.

General Armstrong to Mr. Smith.

Paris, 18th Feb. 1810.

Sir—I wrote a few lines to you yesterday announcing the receipt and transmission of a copy of the Duke of Cadore's note to me of the 14th inst.

After much serious reflection I have thought it best to forbear all notice at present of the errors, as well of facts as of argument, which may be found in the introductory part of that note; to take the Minister at his word; to enter at once upon the proposed negotiation, and, for this purpose, to offer to him a project for renewing the convention of 1800.

This mode will have the advantage of trying the sincerity of the overtures made by him, and perhaps of drawing from him the precise terms on which his master will accommodate. If these be such as we ought to accept, we shall have a Treaty, in which neither our rights nor wrongs will be forgotten; if otherwise, there will be enough, both of time and occasion, to do justice to their policy and our own, by a free examination of each.

I have the honor to be, &c. &c.

JOHN ARMSTRONG.

Honorable Robert Smith.

Extract of a letter to the same from the same.

10th March. I have at length received a verbal message in answer to my note of the 21st ult. It was from the Minister of foreign relations, and in the following words: "His Majesty has decided to sell the American property seized in Spain, but the money arising therefrom shall remain in depot." This message has given occasion to a letter from me marked No. 2."

(No. 2.) Paris, 10th March, 1810.

Sir, I had yesterday the honor of receiving a verbal message from your excellency, stating, that "his majesty had decided, that the American property seized in the ports of Spain should be sold, but that the money arising therefrom should remain in depot."

On receiving this information, two questions suggested themselves—

1st. Whether this decision was, or was not, extended to ships, as well as to cargoes? and

2d. Whether the money arising from the sales which might be made under it, would, or would not, be subject to the issue of the pending negotiation?

The gentleman charged with the delivery of your message not having been instructed to answer these questions, it becomes my duty to present them to your excellency, and to request a solution of them. Nor is it less a duty, on my part, to examine the ground on which his majesty has been pleased to take this decision, which I understand to be that of reprisal, suggested for the first time in the note you did me the honor to write to me on the 14th ult. In the 4th paragraph of this note, it is said, that "his Majesty could not have calculated on the measures taken by the United States, who, having no grounds of complaint against France, have comprised her in their acts of exclusion, and since the month of May last, have prohibited the entry into their ports of French vessels, by subjecting them to confiscation."

It is true that the U. States have since the 20th of May last forbidden the entry of French vessels into their harbors—and it is also true that the penalty of confiscation attaches to the violation of this law. But in what respect does this offend France? Will she refuse to us the right of regulating commerce within our own ports? Or will she deny that the law in question is a regulation merely municipal? Examine it both as to object and means—what does it more than forbid American ships from going into the ports of France, and French ships from coming into those of the U. States? And why this prohibition? To avoid injury and insult; to escape that lawlessness, which is declared to be "a forced consequence of the decrees of the British council." If then its object be purely defensive, what are its means? Simply a law, previously and generally promulgated, operating solely within the territory of the U. States, and punishing alike the infractors of it, whether citizens of the said states, or others. And what is this but the exercise of a right, common to all nations, of excluding at their will foreign commerce, and of enforcing that exclusion? Can this be deemed a wrong to France? Can this be regarded as a legitimate cause of reprisal on the part of a power, who makes it the first duty of nations to defend their sovereignty and who even denationalizes the ships of those who will not subscribe to the opinion.

But it has been said that the "United States had nothing to complain of against France."

Was the capture and condemnation of a ship driven on the shores of France by stress of weather and the perils of the sea—nothing? Was the seizure and sequestration of many cargoes brought to France in ships violating no law and admitted to regular entry at the imperial custom houses—nothing? Was the violation of our maritime rights, consecrated as they have been by the solemn forms of a public treaty—nothing? In a word, was it nothing that our ships were burnt on the high seas, without other offence than that of belonging to the United States; or other apology, than was to be found in the enhanced safety of the perpetrator? Surely if it be the duty of the United States to *rescind* the theoretical usurpations of the British orders of November 1807, it cannot be less their duty to *complain* of the daily and practical outrages on the part of France! It is indeed true, that were the United States destitute of policy, of honor and of energy (as has been insinuated) they might have adopted a system of discrimination between the two belligerents; they might have drawn imaginary lines between the first and second aggressor; they might have resented in the one a conduct to which they tamely submitted in the other, and in this way have patched up a compromise between honor and interest, equally weak and disgraceful. But such was not the course they pursued, and it is perhaps a necessary consequence of the justice of their measures that they are at this day an independent nation. But I will not press this part of my subject; it would be affrontful to your excellency (knowing as you do, that there are not less than 400 American ships within his majesty's possession, or that of his allies) to multiply proofs that the United States have grounds of complaint against France.

My attention is necessarily called to another part of the same paragraph, which immediately follows the quotation already made. "As soon," says your excellency, "as his Majesty was informed of this measure (the non-intercourse law) it became his duty to retaliate upon the American vessels, not only within his own territories, but also within the countries under his influence. In the ports of Holland, Spain, Italy and Naples, the American vessels have been seized, because the *Americans had seized French vessels.*"

These remarks divide themselves into the following heads:

1st. The right of his Majesty to seize and confiscate American vessels, within his own territories.

2d. The right to do so within the territories of his allies; and

3d. The reason of that right, viz. "because Americans had seized French vessels."

The first of these subjects has been already examined; and the second must be decided like the first, since his Majesty's rights within the limits of his ally cannot be greater than within his own.—If then it has been shewn, that the non-intercourse law was merely defective in its object; that it was but intended to guard against that state of violence which unhappily prevailed; that it was restricted in its operation to the territory of the United States, and that it was duly promulgated there and in Europe before execution; it will be almost unnecessary to repeat, that a law of such description cannot authorize a measure of reprisal, equally sudden and silent in its enactment and application, founded on no previous wrong, productive of no previous complaint, and operating beyond the limits of his Majesty's territories and within those of sovereignty, who had even invited the commerce of the United States to their ports.

It is therefore the third subject only, the reason of the right, which remains to be examined; and with regard to it I may observe, that if the alleged fact which forms this reason be unfounded, the reason itself fails and the right with it. In this view of the business I may be permitted to enquire, when and where any seizure of a French vessel has taken place under the non-intercourse law? and at the same time to express my firm persuasion, that no such seizure has been made: a persuasion founded alike on the silence of the government and of the journals of the country, and still more on the positive declaration of several well informed and respectable persons who have left America as late as the 26th of December last. My conclusion therefore is, that no French vessel having violated the law, no seizure of such vessel has occurred, and that the report which has reached Paris is probably founded on a circumstance altogether unconnected with the non-intercourse law or its operation.

Though far from wishing to prolong this letter, I cannot close it without remarking the great and sudden change wrought in his majesty's sentiments with regard to the defensive system adopted by the United States. The law, which is now believed to furnish ground for reprisal, was first communicated to his majesty in June or July last, and certainly did not then excite any suspicion or feeling unfriendly to